

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

Joseph McPherson, Betty McPherson, and
Edgar Jason Dietrich,

Plaintiffs,

v.

Case No. 14-14574

Peter K. Tiernan, M.D., an individual, and
Basil T. Simon, an individual and trustee,
Defendants.

Sean F. Cox
United States District Court Judge

ORDER DISMISSING COMPLAINT WITHOUT PREJUDICE

Plaintiffs filed this action in the United States District Court for the Eastern District of Michigan on November 24, 2014, seeking to appeal an order of a bankruptcy court judge in a pending Chapter 7 bankruptcy case. (*In re Edgar Julian Dietrich*, Bankr. Case No. 13-57297 (Bankr. E.D. Mich.) (McIvor, J.)).

The district courts have jurisdiction over appeals from final judgments, orders and decrees of the bankruptcy court, as well as certain interlocutory appeals from bankruptcy orders. 28 U.S.C. § 158(a)(1) - (3). An appeal taken under section 158(a) “shall be taken in the same manner as appeals in civil proceedings generally are taken to the courts of appeals from the district courts” 28 U.S.C. § 158(c)(2).

In the case of an appeal as of right, the appellant must file a Notice of Appeal in the court from which appeal is taken—here, the bankruptcy court. FED. R. APP. PROC. 3; FED. R. BANKR. PROC. 8003. Otherwise, the appellant must seek permission of the court to file a Notice of Appeal. FED. R. APP. PROC. 5; FED. R. BANKR. PROC. 8004.

A review of the docket in the pending bankruptcy case (Case No. 13-57297) shows that Plaintiffs did not file a Notice of Appeal in the pending bankruptcy case, nor did they seek leave of court to pursue an interlocutory appeal.

Therefore, the Court shall DISMISS WITHOUT PREJUDICE Plaintiff's Complaint.

IT IS SO ORDERED.

Dated: December 17, 2014

S/ Sean F. Cox
Sean F. Cox
U. S. District Judge

I hereby certify that on December 17, 2014, the foregoing document was served on counsel of record via electronic means and upon Joseph McPherson, Betty McPherson and Edgar Jason Dietrich via First Class mail at the address below:

Joseph McPherson
c/o Edgar Jason Dietrich
15832 Windmill Pointe Dr
Grosse Pointe Park, MI 48230

Betty McPherson
c/o Edgar Jason Dietrich
15832 Windmill Pointe Dr
Grosse Pointe Park, MI 48230

Edgar Jason Dietrich
15832 Windmill Pointe Dr
Grosse Pointe Park, MI 48230

S/ J. McCoy
Case Manager